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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,769	09/27/2005	Mitchell Joe Dodson	1557-4 PCT/US/RCE	1779
23869 7590 04/07/2009 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				
EXAMINER				
KIM, CHRISTOPHER S				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
04/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/550,769

**Applicant(s)**

DODSON, MITCHELL JOE

**Examiner**

Christopher S. Kim

**Art Unit**

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-12 and 14-22 is/are pending in the application.  
4a) Of the above claim(s) 12 and 14-22 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 5-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SI-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 5, 2009 (duplicate of the reply filed December 5, 2008) has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

3. Applicant elected with traverse Group I in the reply filed on March 26, 2008.  
The requirement was made FINAL in the Office action mailed on April 9, 2008.
4. Claims 12, 14-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 26, 2008.

### ***Claim Rejections - 35 USC § 112***

5. Claims 5-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the pins" in line 2. There is insufficient antecedent basis for this limitation in the claim. Parent claim 10 merely requires "a pin," i.e., one pin.

Claim 9 recites the limitation "wherein each pin is coupled to an internally threaded block" in lines 1-2. There are at least two possible interpretations: (1) each pin is coupled one block, i.e., all the pins are coupled to a single block; or (2) each pin is coupled to a respective block, i.e., the number of pins equals the number of blocks. It is uncertain how many blocks are limited by the claim. In like manner, claim 9 also recites the "a shaft being in threaded engagement with each block whereby rotation of the shaft causes movement of the blocks" in lines 2-3. It would appear that claim 9 is limited to one shaft. The claim is not narrowly defined to require more than one shaft, even though the specification teaches threaded rods 92, 93. If more than one block is required, is more than one shaft required too? It is uncertain how many blocks and shafts are required by the claim.

Claim 10 recites the limitation "...a pin terminating in an end face is positioned at each end of the head of the head to be displaceable..." in lines 7-9. The repetition "of the head" appears to be a grammatical error.

Claim 10 recites the limitation "the end faces of the pin" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the pins" in line 1. There is insufficient antecedent basis for this limitation in the claim. Parent claim 10 merely requires "a pin," i.e., one pin.

***Claim Rejections - 35 USC § 102***

6. Claims 5-7, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Higgins (816,470).

Higgins discloses a nozzle comprising:

a T-piece having:

a leg 5;

a head 9 having an internal curvature (internal curvature of 9 that accommodates plugs 10 and 11);

an aperture 7;

a pin 10, 11.

***Claim Rejections - 35 USC § 103***

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (816,470).

Higgins discloses the limitations of the claimed invention with the exception of the fluid passageway having the same diameter as the cross member. Although Higgins discloses, on page 1, lines 65-68, that the size of the nozzle at its discharge end is increased to accommodate said apertures 9 and plugs 10, 11 and insure structural

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strength, Higgins does not specifically disclose the internal diameters of the fluid passage and the cross member. It is knowledge within one of ordinary skill in the art to size fluid passages. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have sized the internal diameter of the fluid passage and cross member to maintain constant fluid volume.

### ***Response to Arguments***

8. Applicant's arguments filed March 5, 2009 have been fully considered but they are not persuasive.

Applicant raises no new issues. Applicant is required to view Higgins, figure 1, rotated counter clockwise 90 degrees. The portion containing aperture 9 and pipe 5 clearly represents a T-shape. If applicant's argument holds true, it would appear that claims would be patentable if the exact claim terminology is not used by the prior art. Such standard would appear to be unreasonable and would be counter to common sense and reason.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. Kim/  
Primary Examiner, Art Unit 3752

CK